

1 DAVID H. KRAMER, SBN 168452
Email: dkramer@wsgr.com
2 MAURA L. REES, SBN 191698
Email: mrees@wsgr.com
3 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
4 650 Page Mill Road
Palo Alto, CA 94304-1050
5 Telephone: (650) 493-9300

6 ERIC P. TUTTLE, SBN 248440
Email: eric.tuttle@wsgr.com
7 WILSON SONSINI GOODRICH & ROSATI
Professional Corporation
8 701 Fifth Avenue, Suite 5100
Seattle, WA 98104-7036
9 Telephone: (206) 883-2500

10 *Counsel for Defendants*
GOOGLE LLC AND ALPHABET INC.

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN JOSE DIVISION**
15

16 *In re Google Generative AI Copyright*
17 *Litigation,*

Master File Case No.: 5:23-cv-03440-EKL
Consolidated with Case No.: 5:24-cv-02531-EKL

18 **DECLARATION OF PAUL J. SAMPSON IN**
19 **SUPPORT OF DEFENDANTS' REPLY IN**
20 **SUPPORT OF MOTION TO STRIKE CLASS**
21 **ALLEGATIONS**

22 Judge: Hon. Eumi K. Lee
23
24
25
26
27
28

1 I, Paul J. Sampson, declare as follows:

2 1. I am an attorney duly licensed to practice before this Court. I am Of Counsel at the
3 law firm of Wilson Sonsini Goodrich & Rosati, P.C., counsel for Defendants Google LLC
4 (“Google”) and Alphabet Inc. (together with Google, “Defendants”) in this matter. I have personal
5 knowledge of the facts set forth herein and, if called as a witness, I could and would testify
6 competently thereto.

7 2. On January 17, 2025, Defendants filed a Motion to Strike Class Allegations, ECF
8 No. 98 (“Motion” or “Mot.”). Defendants explained in the Motion that, despite this Court’s
9 December 6, 2024 order directing Plaintiffs to “disclose all new parties, new claims, and new
10 allegations not included in” their previous complaints, ECF No. 77 at 2, “Plaintiffs did not disclose
11 any intention to modify their proposed class definition,” Mot. 4. Rather, “in response to Google’s
12 specific questions on the subject, Plaintiffs’ counsel stated that Plaintiffs expected the class
13 definition to closely mirror the definition used in the *Leovy* complaint.” *Id.* at 4-5.

14 3. Plaintiffs filed their Opposition to Defendants’ Motion to Strike Class Allegations,
15 ECF No. 105 (“Opposition”), on February 7, 2025. In support of the Opposition, Plaintiffs
16 concurrently filed the Declaration of Gregory S. Mullens in Support of Plaintiffs’ Opposition to
17 Defendants’ Motion to Strike Class Allegations, ECF No. 106 (“Mullens Declaration”). The
18 Mullens Declaration states that, following a meet and confer on December 6, 2024, “counsel for
19 Defendants called Plaintiffs’ counsel to ask whether Plaintiffs would be amending their class
20 definition,” and that “Plaintiffs’ counsel confirmed that the class definition would be amended to
21 reflect consolidation of the *Leovy* and *Zhang* matters.” *Id.* ¶ 3.

22 4. That is incorrect, or at least incomplete and misleading. During the December 6,
23 2024 meet-and-confer call, in which I participated, Plaintiffs did not disclose that they intended to
24 amend the class definition. In fact, Plaintiffs did not mention the class definition at all during the
25 meet-and-confer call at which they had been ordered to disclose all new parties, new claims, and
26 new allegations not included in the *Leovy* or *Zhang* complaints.

27 5. A few minutes after the December 6, 2024 meet and confer ended, I called Laura
28 Matson, Plaintiffs’ counsel at Lockridge Grindal Nauen PLLP. During that separate call, I

1 specifically asked Ms. Matson if Plaintiffs would be amending their class definition. Ms. Matson
2 stated that Plaintiffs expected the class definition would look like the definition Plaintiffs had used
3 in the previous *Leovy* complaint. Mr. Mullens was not on this call.

4 6. The Parties subsequently exchanged emails in furtherance of their meet-and-confer
5 efforts. On December 13, 2024, the Parties met and conferred again, “this time to discuss Google’s
6 anticipated bases for moving to dismiss the consolidated amended complaint” as directed by the
7 Court. ECF No. 77 at 2. At no point before or during this meet-and-confer call did Plaintiffs
8 disclose any intention to significantly alter their proposed class definition or to propose a fail-safe
9 class. Defendants still had no idea that Plaintiffs were contemplating such changes.

10 7. The issue of Plaintiffs’ planned new definition did not come up at the December
11 18, 2024 Case Management Conference in this matter because Plaintiffs had never mentioned the
12 new definition to Defendants.

13 8. Defendants first learned of Plaintiffs’ substantially revised, fail-safe class definition
14 when Plaintiffs filed and served their Consolidated Amended Complaint on December 20, 2024.

15 I declare under penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct. Executed on February 21, 2025, at Salt Lake City, Utah.

17
18 By: /s/ Paul J. Sampson

19 Paul J. Sampson

20 psampson@wsgr.com
21
22
23
24
25
26
27
28

SIGNATURE ATTESTATION

I, Eric P. Tuttle, am the ECF User whose ID and password are being used to file this document. In compliance with N.D. Cal. Civil L.R. 5-1(i)(3), I hereby attest that the concurrence in the filing of this document has been obtained from the other signatory.

By: /s/ Eric P. Tuttle
Eric P. Tuttle